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10 Attorneys for Plaintiffs

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13 UNITED STATES DISTRICT COURT
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15 NORTHERN DISTRICT OF CALIFORNIA

16 BOARD OF TRUSTEES OF THE CEMENT
17 MASONS HEALTH AND WELFARE TRUST
18 FUND FOR NORTHERN CALIFORNIA; BOARD OF TRUSTEES OF THE CEMENT
19 MASONS VACATION-HOLIDAY TRUST
20 FUND FOR NORTHERN CALIFORNIA; BOARD OF TRUSTEES OF THE CEMENT MASONS
21 TRAINING TRUST FUND FOR NORTHERN
22 CALIFORNIA,

Case No.: C 08-03555 CRB

23
24 STIPULATION TO CONTINUE CASE
25 SCHEDULE; ORDER THEREON

26 Date: October 31, 2008
27 Time: 8:30 a.m.
28 Ctroom: 8, 19th Floor

Plaintiffs,

v.

K.M. JACKSON ENGINEERING, INC., a
California corporation and KURT THOMAS
MCFADDEN, an individual,

Defendants.

29 BOARD OF TRUSTEES OF THE
30 LABORERS HEALTH AND WELFARE
31 TRUST FUND FOR NORTHERN
32 CALIFORNIA; BOARD OF TRUSTEES OF
33 THE LABORERS VACATION-HOLIDAY
34 TRUST FUND FOR NORTHERN
35 CALIFORNIA; BOARD OF TRUSTEES OF
36 THE LABORERS PENSION TRUST FUND
37 FOR NORTHERN CALIFORNIA; and
38 BOARD OF TRUSTEES OF THE
39 LABORERS TRAINING AND RETRAINING
40 TRUST FUND FOR NORTHERN
41 CALIFORNIA,

Case No.: C 08-03556 CRB

Plaintiffs,

Y.

K.M. JACKSON ENGINEERING, INC., a California corporation and KURT THOMAS MCFADDEN, an individual,

Defendants.

STIPULATION

IT IS HEREBY STIPULATED by and between Plaintiffs Board of Trustees of the Cement Masons Health and Welfare Trust Fund for Northern California, Board of Trustees of the Cement Masons Vacation-Holiday Trust Fund for Northern California, Board of Trustees of the Cement Masons Pension Trust Fund for Northern California and Board of Trustees of the Cement Masons Training Trust Fund for Northern California ("Cement Masons Trust Funds"), Case No. C 08 03555 CRB; and Plaintiffs Board of Trustees of the Laborers Health and Welfare Trust Fund for Northern California, Board of Trustees of the Laborers Vacation-Holiday Trust Fund for Northern California, Board of Trustees of the Laborers Pension Trust Fund for Northern California and Board of Trustees of the Laborers Training and Retraining Trust Fund for Northern California ("Laborers Trust Funds"), Case No. C 08 03556 CRB, on the one hand, and Defendant Kurt Thomas McFadden, on the other hand, through their respective counsel, as to the following.

On July 24, 2008 Plaintiffs Cement Masons Trust Funds and Plaintiffs Laborers Trust Funds filed their respective Complaints for Damages for Breach of Collective Bargaining Agreement, To Recover Unpaid Trust Fund Contributions and For Breach of Fiduciary Duty against Defendants K.M. Jackson Engineering, Inc. and Kurt Thomas McFadden to recover alleged unpaid trust fund contributions. Defendant Kurt Thomas McFadden was served on or about July 29, 2008. Defendant K.M Jackson, Inc. was served on or about September 4, 2008.

On September 12, 2008 the two cases were consolidated and assigned to the Hon. Charles R. Breyer.

1 Plaintiffs Cement Masons Trust Funds and Laborers Trust Funds are informed and
2 believe that Defendant K.M. Jackson Engineering, Inc., a general contractor, is no longer in
3 business and its license has expired.

4 Counsel for Plaintiffs and counsel for Defendant Kurt Thomas McFadden are attempting
5 to settle the disputes in both cases in an effort to avoid further litigation costs and fees.

6 IT IS FURTHER STIPULATED that to allow Plaintiffs and Defendant additional time
7 to try to settle this action:

- 8 • Defendant Kurt Thomas McFadden shall have up to and including November 14,
9 2008 to file a responsive pleading;
- 10 • The parties shall meet and confer re initial disclosures, early settlement, ADR
11 process selection, and discovery plan; file ADR Certification signed by Parties
12 and Counsel; and file either Stipulation to ADR Process or Notice of Need for
13 ADR Phone Conference by November 24, 2008;
- 14 • The parties shall file their Rule 26(f) Report, complete initial disclosures or state
15 objection to Rule 26(f) Report and file Case Management Statement per attached
16 Standing Order re Contents of Joint Case Management Statement by December
17 8, 2008; and

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- The Initial Case Management Conference shall be held on or about December 19, 2008 [subject to this Court's calendar availability].

DATED: October 23, 2008

BULLIVANT Houser Bailey PC

By Ronald L. Richman
Ronald L. Richman
Susan J. Olson

Attorneys for Plaintiffs

10 DATED: October 23, 2008

MURPHY AUSTIN ADAMS SCHOENFFLD
LLP

By Erick C. Turner
Attorneys for Defendant Kurt Thomas McFadden

CASE MANAGEMENT ORDER

The Court having read the Stipulation To Continue Case Schedule for 30 day and good cause appearing therefore:

IT IS HEREBY ORDERED that:

- Defendant Kurt Thomas McFadden shall have up to and including November 14, 2008 to file a responsive pleading;
- The parties shall meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan; file ADR Certification signed by Parties and Counsel; and file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference by November 24, 2008;
- The parties shall file their Rule 26(f) Report, complete initial disclosures or state objection to Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement by December 8, 2008; and
- The Initial Case Management Conference shall be held on December 12, 2008 at 8:30 a.m., Courtroom 8, 19th Floor.

DATED: Oct. 24, 2008

By

**HON. CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE**

CHARLES R. BREYER
UNITED STATES

UNITED STATES GOVERNMENT PURCHASE ORDER FORM

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Judge Chair

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